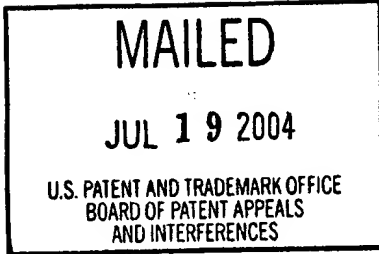


UNITED STATES PATENT AND TRADEMARK OFFICE



\_\_\_\_\_  
BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

\_\_\_\_\_  
Ex parte WILLIAM J. BENMAN

\_\_\_\_\_  
Application No. 09/363,456

\_\_\_\_\_  
ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences (BPAI) on June 15, 2004. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

Appellant filed an Appeal brief on April 21, 2003 (Paper No. 10). Upon initial review of the application, it was discovered that the Appeal Brief was absent from the file. In the interest of time, the BPAI contacted the office of appellant's attorney and requested a fax copy of the missing Brief which request appellant graciously complied

Application No. 09/363,456

with. On page 2 of the brief, under section IV. **STATUS OF AMENDMENTS**, appellant states, "[a]n Amendment After Final is filed herewith amending Claims 7 and 14". We were unable to locate the amendment in the file and subsequently, once again contacted appellant's attorneys' office and requested a fax copy of the amendment. Again our request was granted and the **faxed copy of the brief and the amendment have been placed in the file**. In an Advisory action by the examiner mailed January 15, 2004, (Paper No. 11), the examiner indicated that for purposes of Appeal, the proposed amendment would be entered. However, there is no record (i.e., paper no. in the contents of the file wrapper or electronic record) of the amendment's entry. Claim 7 in the brief Appendix does not reflect the claim as amended, which thereby renders the copy of the brief claims incorrect.

The examiner must either issue a Supplemental Answer correcting the Brief Appendix of the amended claim 7 or require the appellant to submit a new Brief Appendix of a correct copy of all of the appealed claims.

Accordingly, it is

ORDERED that the application is being returned to the examiner

- (1) to have the matter of the Amendment After Final filed concurrently with the Appeal Brief on April 21, 2003 properly entered,
- (2) notification to appellant in writing of the action taken in the above matter, and


Application No. 09/363,456

(3) for such further action as may be appropriate.

It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the status of the appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By:

A handwritten signature in black ink, appearing to read 'DMS', written over a horizontal line.

DALE M. SHAW  
Program and Resource Administrator  
(703) 308-9797

cc: WILLIAM J. BENMAN  
INTEGRATED VIRTUAL NETWORKS  
2049 CENTURY PARK EAST  
SUITE 2740  
LOS ANGELES, CA 90067

DMS/vsh  
RA04-0684